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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,113	07/21/2003	Kenneth A. Shaw	29968/38059A	6130

4743 7590 11/30/2004

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EXAMINER
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LAVINDER, JACK W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/624,113

Applicant(s)

SHAW ET AL.

Examiner

Jack W. Lavinder

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/31/04, 10/23/03</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: on page 6, third paragraph, the specification states "the rollers 6 extends above the first and second extension walls 18,28." The drawings show the opposite—the rollers are located below the first and second extension walls 18, 28. It is not clear what the applicant is disclosing. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 49 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 49, it is not clear what "the guideposts" are relative to the language defined in claim 44.

In claim 52, it is not clear what "the divider bar member" is relative to the language defined in claim 44.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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This is a provisional double patenting rejection, since the claims in 10/141559 have not yet been published. Claims 44-52 are the exact same invention as described in claims 19-27 of allowed, not yet published, application 10141559.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 44, 45, 46, 50, and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolibar, 3,733,655.

7. Regarding claims 44, 45, 46, 50, 52, Kolibar discloses a clip (20) having a thickness (dimension from top to bottom of the clip) for joining at least two members (A, B, or C) having a first side (top of figures 1 and 3) having a slot capable of engaging a divider bar member and a second side (bottom of figures 1 and 3) with at least one protruding tine (10 or 12).

8. Claims 44 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Bedford, 3,509,978.

9. Regarding claim 44, Bedford discloses a clip (20) having a thickness (figure 5) for joining at least two conveying members (18, figure 5) having a first side (left side) and a second side (right side) with at least one protruding tine, which engages an aperture in each conveyor.

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10. Regarding claim 50, Bedford discloses a clip (20) having a top portion defining a slot with the hooked upstanding wall of the clip.

11. Claims 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Worth, 4,664,458.

12. Regarding claims 44-46, Worth discloses a clip (10) having at least one protruding tine on each of two sides.

13. Regarding claims 47 and 48, Worth discloses guide apertures for receiving guideposts (48, 50, column 4, lines 54-60).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedford in view of Miller, 4,383,614. Bedford discloses a slot between the upstanding wall and the top of the clip (20), but fails to disclose a divider bar engaging the slot.

16. Miller discloses a clip (C, figure 4) having a slot in the top portion of the clip for engaging a divider bar (32b) to be positioned between two conveyors (32a) to help guide products down the shelf and to maintain the products in alignment so they can easily slide down the shelf.

17. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Bedford's clip to include a retention slot for a divider

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member to improve the alignment of the products as they are conveyed along the conveyor. This would prevent the products from becoming jammed as they move along the conveyor.


***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 703-308-3421. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jack W Lavinder  
Primary Examiner  
Art Unit 3677